

State of California  
BOARD OF EQUALIZATION  
**SALES AND USE TAX REGULATIONS**

**REGULATION 1591.1 SPECIFIC MEDICAL DEVICES, APPLIANCES, AND RELATED SUPPLIES**

*Reference:* Sections 6006, 6369, and 6369.1, Revenue and Taxation Code.

**(a) DEFINITIONS.**

(1) **PHYSICIANS, DENTISTS, OPTOMETRISTS, AND PODIATRISTS.** “Physicians,” “dentists,” “optometrists,” and “podiatrists” are persons authorized by a currently valid and unrevoked license to practice their respective professions in this state. “Physician” means and includes any person holding a valid and unrevoked physician’s and surgeon’s certificate or certificate to practice medicine and surgery, issued by the Medical Board of California or the Osteopathic Medical Board of California and includes an unlicensed person lawfully practicing medicine pursuant to section 2065 of the Business & Professions Code, when acting within the scope of that section.

(2) **PRESCRIPTION.** “Prescription” means an oral, written, or electronic transmission order that is issued by a physician, dentist, optometrist, or podiatrist licensed in this state *and* given individually for the person or persons for whom ordered. The order must include all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the conditions for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order.

**(b) SPECIFIC APPLICATIONS.**

(1) **HEMODIALYSIS PRODUCTS.** Tax does not apply to the sale or use of hemodialysis products supplied on order of a licensed physician and surgeon to a patient by a pharmacist or by a manufacturer, wholesaler, or other supplier authorized by section 4054 or 4059 of the Business and Professions Code to distribute such products directly to the patient.

(2) **MAMMARY PROSTHESES AND OSTOMY APPLIANCES AND RELATED SUPPLIES.** Tax does not apply to the sale or use of mammary prostheses and ostomy appliances and related supplies required as a result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste when sold or furnished under one of the conditions provided in Regulation 1591 subdivision (d)(1) through (d)(6). The mammary prostheses devices and ostomy appliances and related supplies do not need to be furnished by a pharmacist, within the meaning of subdivision (d)(1), to be considered dispensed on prescription as long as they are furnished pursuant to a written order of a person authorized to prescribe.

Ostomy appliances and related supplies must be used in postoperative situations or sold as an accommodation to patients following surgery in order to qualify as medicines. When used as an adjunct to surgical procedures, the sale or use of these items is subject to tax unless the appliances remain in the patient for postoperative purposes.

Qualifying mammary prostheses and qualifying ostomy appliances and related supplies include, but are not limited to, bras to hold a mammary prosthesis in place, filler pads, lymphedema arm sleeves, adhesive spray and remover; catheters used as a result of an artificial opening created in the human body; colostomy bags; deodorant used on the person of the user; karaya rings; antacid used externally as a skin ointment; skin gel; nonallergic paper tape and gauze; skin bond cement; tincture of benzoin applied topically as a protective; urinary drainage appliances; closed

## Regulation 1591.1 (Continued)

stoma bags; drainable stoma bags; loop ostomy supplies and tubing; and endotracheal and tracheotomy tubes and tracheostomy tubes used for the evacuation of metabolic waste when used post-operatively or for home care.

(3) **KIDNEY DIALYSIS MACHINES.** The term “ostomy appliances” and “related supplies” includes kidney dialysis machines, replacement parts for the kidney dialysis machines, and the catheters, dialysis fluid additives, volumetric infusion pumps, tubing, blood sets, fistula sets, and shunts used in conjunction with such machines. In order to qualify as a “related supply,” an item must be a necessary and integral part of the machine itself, or a substance or preparation intended for external or internal application to the human body of the patient undergoing dialysis.

(4) **CATHETERS.** Generally, sales of catheters are subject to tax in the same manner as other sales of tangible personal property. However, sales of the following types of catheters are not subject to tax.

**(A)** Intra-aortic balloon pump catheters and coronary angioplasty balloon catheters.

However, sales of related supplies are subject to tax. The term “related supplies” includes, but is not limited to, coronary guiding catheters, coronary guide wires, guide wire introducers, sheath introducer systems, torquing devices, hemostatic valves, inflation devices, and syringes.

**(B)** Catheters which are permanently implanted in the human body and assist the functioning of a natural organ, artery, vein, or limb and remain or dissolve in the body.

**(C)** Catheters used for drainage purposes through which an artificial opening is created in the human body. Such catheters qualify as ostomy materials and related supplies.

**(D)** Catheters or similar types of devices used for drainage purposes through natural openings in the human body to assist or replace the functioning of a natural part of the human body. Such catheters are designed to be worn on or in the body of the user and qualify as prosthetic devices.

(5) **INSULIN AND INSULIN SYRINGES.** “Insulin” and “insulin syringes” furnished by a pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on prescription within the meaning of Revenue and Taxation Code section 6369(e). As such, the sale or use of insulin and insulin syringes furnished by a pharmacist to a person for treatment of diabetes, as directed by a physician, is exempt from tax.

Glucose test strips and skin puncture lancets furnished by a registered pharmacist that are used by a diabetic patient to determine his or her own blood sugar level and the necessity for and amount of insulin and/or other diabetic control medication needed to treat the disease in accordance with a physician’s instructions are an integral and necessary active part of the use of insulin and insulin syringes or other anti-diabetic medications and, accordingly, are not subject to sale or use tax pursuant to subsection (e) of Revenue and Taxation Code section 6369. These medical supplies are not medicines and their sale or use does not qualify for tax exemption under subsections (a) or (b) of Revenue and Taxation Code section 6369.

*History:* Promulgated December 9, 1999, effective March 10, 2000.

*Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.*